

OCT 27 2006

Serial No. 10/776,058
Reply to Office Action dated June 30, 2006

Docket No. 3655/0241PUS1**REMARKS**

Favorable reconsideration and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. Claims 1-30 are pending in the application.

35 U.S.C. § 102 Rejection

Claims 1-3, 13-16 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Durgin (U.S. Patent Pub. No. 2005/0124354). Applicants submit the Examiner has failed to establish a *prima facie* case of anticipation and traverse the rejection.

Durgin merely discloses a method of estimating the location of a wireless terminal that is within a structure, whereby the method can be practiced without the addition of hardware to either the wireless terminal or to base stations of the telecommunications system (Abstract). Durgin specifically discloses that wireless terminal 202-1 is a standard GSM wireless terminal, as is currently manufactured and used throughout the world. Wireless terminal 202-1 is equipped, in well-known fashion, with the hardware and software necessary to measure and report to wireless switching center 208 the signal strength of the control and traffic channels from base stations 204-A, 204-B, and 204-C. (Page 2, [0046].)

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Location system 210 is a computer system that is capable of estimating the location of wireless terminal 202-1. Location system 210 can estimate the location of only or any number of wireless terminals serviced by wireless switching center 208 (page 2, [0047]).

However, Durgin fails to disclose, at least, "a first signal monitor for measuring: (i) the signal strength at said first signal monitor of the first packet transmitted by an emitter," as recited in claim 1; and "a first signal monitor for making: (i) a first plurality of signal strength measurements of said signal," as recited in claim 16.

Applicants submit that Durgin utilizes a different system architecture than the present invention, and that Durgin is completely silent with respect to the features of claims 1 and 16 as quoted above.

In fact, Durgin teaches away from the above quoted feature because Durgin's method requires that the terminals themselves measure the signal strength, and report the signal strength values to the switching center and base stations (page 2, [0046]).

Accordingly, Applicants request that the Examiner withdraw the rejection of claims 1 and 16.

35 U.S.C. § 103 Rejection

Claims 4-12, 17-30 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Durgin in view of Admitted Prior Art (APA). Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness and traverse the rejection.

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Applicants initially note that in the outstanding Office Action, the Examiner cited to significant portions of the detailed description of the application and asserted they were APA (e.g., Office Action: pages 5-12). Applicants submit that the Examiner's sweeping characterization of the subject matter provided the detailed description as APA is improper, and in no way do Applicants acquiesce to the Examiner's characterizations.

Regarding independent claim 28, Durgin merely discloses a general-purpose processor 312 interfaced to memory containing an outdoor database and indoor database. Specifically, outdoor radio frequency database 314 is in a non-volatile memory that stores signal-strength values as developed from any suitable outdoor radio frequency-signal propagation model. The "outdoor radio frequency model" means a technique that provides signal strength as a function of position in "open" space; that is, not within a structure. This includes techniques that predict signal strength as a function of position in free space, or incorporate measured data, or both ([0052]).

Durgin further discloses that it is important is that outdoor radio frequency database 314 contains signal-strength data that: is correlated (or capable of being correlated) to location within region 200; and is in (or convertible to) a format that can be used with the information from the indoor radio frequency-signal propagation model ([0054]).

However, Durgin fails to teach or suggest, as admitted by the Examiner, at least, "a processor for: ... (ii) interpolating said first set to form a first scalar array of signal samples across two dimensions," as recited in claim 28 (emphasis added).

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In summary, Durgin merely discloses that an outdoor model may be used with an indoor model, but fails to provide any enabling details on how to develop the outdoor model.

The Examiner attempts to cure the deficiencies of Durgin by improperly using the subject matter presented in the Applicant's detailed description as Admitted Prior Art (APA). Applicants respectfully submit the Examiner is improperly characterizing the portions cited in the detailed description as APA, and as such, such characterizations cannot be used in support of the obviousness rejection.

Moreover, *in arguendo*, even if the subject matter cited by the Examiner was APA, Applicants respectfully submit that the Examiner has failed to provide adequate motivation for establishing a §103 rejection. Specifically, the Examiner failed to provide any specific motivation for making the combination, but instead reiterated portions the claim language recited in claim 28, and then indicated it would be useful for "modeling the signal strength measurements." (See Office Action: page 12, first paragraph). This is merely an overly broad statement which fails to provide any evidence as to why one of ordinary skill in the art would be motivated to combine the model taught by Durgin with the asserted APA teachings.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claim 28.

Dependent Claims

The dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01. Moreover, these claims

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recite additional subject matter, which is not suggested by the documents taken either
alone or in combination.

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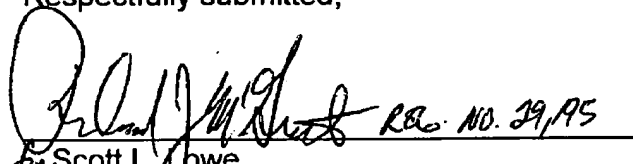
CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-1602 and please credit any excess fees to such deposit account.

Respectfully submitted,


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